

**ASSEMBLY BILL**

**No. 1410**

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**Introduced by Assembly Members Nazarian, Achadjian, and Wilk**

February 27, 2015

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An act to amend Section 16642 of, and to add Section 7513.75 to, the Government Code, relating to investments.

LEGISLATIVE COUNSEL'S DIGEST

AB 1410, as introduced, Nazarian. Public employees' retirement: investments: Turkish investment vehicles.

The California Constitution provides that the Legislature may by statute prohibit retirement board investments if it is in the public interest to do so, and providing that the prohibition satisfies specified fiduciary standards.

Existing law prohibits the Public Employees' Retirement System and the State Teachers' Retirement System from investing public employee retirement funds in a company with active business operations in Sudan and in Iran, as specified.

This bill would additionally prohibit the Public Employees' Retirement System and the State Teachers' Retirement System from investing public employee retirement funds in a Turkish investment vehicle, as specified. The bill would require the Board of Administration of the Public Employees' Retirement System and the Teachers' Retirement Board of the State Teachers' Retirement System to sell or transfer any investments in a Turkish investment vehicle.

This bill would require these boards, on or before January 1, 2017, and annually thereafter, to report to the Legislature any investments in a Turkish investment vehicle and the sale or transfer of those investments, subject to the fiduciary duty of these boards.

This bill would indemnify from the General Fund and hold harmless the present, former, and future board members, officers, and employees of and investment managers under contract with those retirement systems.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. The Legislature finds and declares the following:  
2     (a) The State of California has officially recognized the  
3     Armenian Genocide each year for decades and has repeatedly  
4     urged the Republic of Turkey to acknowledge the facts of the  
5     Armenian Genocide and work toward a just resolution, honor its  
6     obligations under international treaties and human rights laws, to  
7     end all forms of religious discrimination and persecution, and to  
8     return Christian church properties to their rightful owners.  
9     (b) Genocide is defined by the United Nations as an act  
10    “committed with intent to destroy, in whole or in part, a national,  
11    ethnic, racial or religious group”.  
12    (c) Genocide denial is widely viewed as among the final stages  
13    of genocide and serves to perpetuate the effects of genocide even  
14    after the active phases of extermination, massacres, forced marches,  
15    and deportation has ended.  
16    (d) The government of Turkey has engaged and continues to  
17    engage in an ongoing campaign of genocide denial and historical  
18    revisionism by refusing to acknowledge its responsibility for the  
19    Armenian Genocide, refusing to compensate its victims, and  
20    actively pursuing a well-funded political lobbying campaign  
21    throughout the United States, including in California, to rewrite  
22    history and defeat legislation recognizing the Armenian Genocide.  
23    (e) The government of Turkey has engaged and continues to  
24    engage in efforts to effect Armenian cultural erasure since the  
25    founding of the Republic of Turkey, including, but not limited to,  
26    ethnic cleansings and the destruction of sacred Armenian religious  
27    sites.  
28    (f) Reference in Turkey by any scholar, journalist, or other  
29    person to the massacre and deportation of Armenians in 1915 to  
30    1923, inclusive, as genocide can be criminally prosecuted under  
31    Article 301 of the Turkish Penal Code.

1 (g) The State of California is home to the largest  
2 Armenian-American population in the United States, and  
3 Armenians living in California, most of whom are direct  
4 descendants of the survivors of the Armenian Genocide, have  
5 enriched our state through their leadership and contributions in  
6 business, agriculture, academia, government, and the arts, yet  
7 continue to suffer the effects of the continued denial campaign by  
8 the government of Turkey.

9 (h) The State of California, as the world's eighth largest  
10 economy, and in accordance with principles of human rights and  
11 justice, has taken the lead in adopting legislation to divest from  
12 South Africa for its policy of apartheid, Sudan for its genocide in  
13 Darfur, and Iran for its support of international terrorism, imposing  
14 economic consequences upon regimes that engage in conduct and  
15 policy that violate human rights or constitute crimes against  
16 humanity.

17 (i) The State of California, through its Public Employees'  
18 Retirement System (PERS) and its State Teachers' Retirement  
19 System (STRS), directly invests public funds in the government  
20 of Turkey, which then reaps profits while actively denying the  
21 Armenian Genocide, funding its continued campaign of denial, at  
22 least in part, through these investments in its economy.

23 (j) By investing public funds in the government of Turkey, the  
24 State of California as the embodiment of its citizens contradicts  
25 its longstanding, just position of recognizing the Armenian  
26 Genocide and urging the government of Turkey to acknowledge  
27 its responsibility and work toward a just resolution by honoring  
28 its obligations under international treaties and human rights laws,  
29 to end all forms of religious discrimination and persecution, and  
30 to return Christian church properties to their rightful owners.

31 (k) It is the government of Turkey, not the people of Turkey,  
32 that is responsible for Turkey's continued egregious violations of  
33 human rights and active pursuit of genocide denial, cultural erasure,  
34 and historical revisionism.

35 (l) PERS currently has investment holdings in bonds directly  
36 issued by the Republic of Turkey in excess of \$185,000,000.

37 (m) STRS currently has investment holdings in bonds directly  
38 issued by the Republic of Turkey in excess of several hundred  
39 million dollars.

1 (n) Investment in the Republic of Turkey enables its government  
2 to continue to deny justice to the Armenian people.

3 (o) Divesting these funds would ensure that the State of  
4 California is in no way complicit in the continued denial of the  
5 Armenian Genocide by the government of Turkey and would  
6 encourage said government to acknowledge the Armenian  
7 Genocide and to reach a fair and just resolution of reparations for  
8 the survivors of the Armenian Genocide.

9 SEC. 2. Section 7513.75 is added to the Government Code, to  
10 read:

11 7513.75. (a) As used in this section, the following terms have  
12 the following meanings:

13 (1) “Board” means the Board of Administration of the Public  
14 Employees’ Retirement System or the Teachers’ Retirement Board  
15 of the State Teachers’ Retirement System, as applicable.

16 (2) “Government of Turkey” means the government of Turkey  
17 or its instrumentalities or political subdivisions. “Government of  
18 Turkey” also includes any and all investment vehicles, government  
19 bonds, or financial institutions and entities that are owned,  
20 controlled, or operated by the government of Turkey.

21 (3) “Turkey” means the Republic of Turkey or any territory  
22 under the administration or control of Turkey.

23 (4) “Public employee retirement funds” means the Public  
24 Employees’ Retirement Fund described in Section 20062 and the  
25 Teachers’ Retirement Fund described in Section 22167 of the  
26 Education Code.

27 (b) The board shall not invest public employee retirement funds  
28 in any investment vehicle in Turkey that meets either of the  
29 following criteria:

30 (1) The investment vehicle is issued by the government of  
31 Turkey.

32 (2) The investment vehicle is owned, controlled, or managed  
33 by the government of Turkey.

34 (c) On or before June 30, 2016, the board shall determine which  
35 Turkish investment vehicles are subject to divestment.

36 (d) After the determination described in subdivision (c), the  
37 board shall determine, by the next applicable board meeting, if a  
38 Turkish investment vehicle meets the criteria described in  
39 subdivision (b). If the board plans to invest or has investments in  
40 a company that meets the criteria described in subdivision (b), that

1 planned or existing investment shall be subject to subdivisions (g)  
2 and (h).

3 (e) Investments of the board in an investment vehicle that does  
4 not meet the criteria described in subdivision (b) are not subject  
5 to subdivision (h) if the company does not subsequently meet the  
6 criteria described in subdivision (b). The board shall identify the  
7 reasons why that investment vehicle does not satisfy the criteria  
8 described in subdivision (b) in the report to the Legislature  
9 described in subdivision (i).

10 (f) (1) Notwithstanding subdivisions (d) and (e), if the board's  
11 investment in a company described in subdivision (b) is limited  
12 to investment via an externally and actively managed commingled  
13 fund, the board shall contact that fund manager in writing and  
14 request that the fund manager remove that investment vehicle from  
15 the fund as described in subdivision (h). On or before June 30,  
16 2016, if the fund or account manager creates a fund or account  
17 devoid of investment vehicles described in subdivision (b), the  
18 transfer of board investments from the prior fund or account to the  
19 fund or account devoid of the investment vehicles shall be deemed  
20 to satisfy subdivision (h).

21 (2) If the board's investment in an investment vehicle described  
22 in subdivision (b) is limited to an alternative fund or account, the  
23 alternative fund or account manager creates an actively managed  
24 commingled fund that excludes investment vehicles described in  
25 subdivision (b), and the new fund or account is deemed to be  
26 financially equivalent to the existing fund or account, the transfer  
27 of board investments from the existing fund or account to the new  
28 fund or account shall be deemed to satisfy subdivision (h). If the  
29 board determines that the new fund or account is not financially  
30 equivalent to the existing fund, the board shall include the reasons  
31 for that determination in the report described in subdivision (i).

32 (3) The board shall make a good faith effort to identify any  
33 private equity investments that involve investment vehicles  
34 described in subdivision (b), or are linked to the government of  
35 Turkey. If the board determines that a private equity investment  
36 clearly involves an investment vehicle described in subdivision  
37 (b), or is linked to the government of Turkey, the board shall  
38 consider, at its discretion, if those private equity investments shall  
39 be subject to subdivision (h). If the board determines that a private  
40 equity investment clearly involves a company described in

1 subdivision (b), or is linked to the government of Turkey and the  
2 board does not take action as described in subdivision (h), the  
3 board shall include the reasons for its decision in the report  
4 described in subdivision (i).

5 (g) Except as described in subdivisions (e) and (f), the board,  
6 in the board's capacity of shareholder or investor, shall notify any  
7 investment vehicle described in subdivision (d) that the investment  
8 vehicle is subject to subdivision (h) and permit that investment  
9 vehicle to respond to the board. The board shall request that the  
10 investment vehicle take substantial action to disassociate itself  
11 from the government of Turkey no later than 90 days from the date  
12 the board notified the investment vehicle under this subdivision.  
13 If the board determines that an investment vehicle has taken  
14 substantial action or has made sufficient progress toward substantial  
15 action before the expiration of that 90-day period, that investment  
16 vehicle shall not be subject to subdivision (h). The board shall, at  
17 intervals not to exceed 90 days, continue to monitor and review  
18 the progress of the investment vehicle until that investment vehicle  
19 has taken substantial action in Turkey. An investment vehicle that  
20 fails to complete substantial action within one year from the date  
21 of the initial notice by the board shall be subject to subdivision  
22 (h).

23 (h) If an investment vehicle described in subdivision (d) fails  
24 to complete substantial action by the time described in subdivision  
25 (g), the board shall take the following actions:

26 (1) The board shall not make additional or new investments or  
27 renew existing investments in that investment vehicle.

28 (2) The board shall liquidate the investments of the board in  
29 that investment vehicle no later than 18 months after this  
30 subdivision applies to that investment vehicle. The board shall  
31 liquidate those investments in a manner to address the need for  
32 investment vehicles to take substantial action in Turkey and  
33 consistent with the board's fiduciary responsibilities as described  
34 in Section 17 of Article XVI of the California Constitution.

35 (i) On or before January 1, 2017, and every year thereafter, the  
36 board shall file a report with the Legislature. The report shall  
37 describe the following:

38 (1) A list of investments the board has in investment vehicles  
39 that satisfy the criteria in subdivision (b), including, but not limited

1 to, the issuer, by name, of the stock, bonds, securities, and other  
2 evidence of indebtedness.

3 (2) A detailed summary of the association between an  
4 investment vehicle described in paragraph (1) and the government  
5 of Turkey.

6 (3) Whether the board has reduced its investments in an  
7 investment vehicle that satisfies the criteria in subdivision (b).

8 (4) If the board has not completely reduced its investments in  
9 an investment vehicle that satisfies the criteria in subdivision (b),  
10 when the board anticipates that the board will reduce all  
11 investments in that investment vehicle or the reasons why a sale  
12 or transfer of investments is inconsistent with the fiduciary  
13 responsibilities of the board as described in Section 17 of Article  
14 XVI of the California Constitution.

15 (5) Any information described in subdivisions (d) and (e).

16 (6) A detailed summary of investments that were transferred to  
17 funds or accounts devoid of Turkish investment vehicles as  
18 described in subdivision (f).

19 (7) An annual calculation of any costs or investment losses or  
20 other financial results incurred in compliance with the provisions  
21 of this section.

22 (j) If the board voluntarily sells or transfers all of its investments  
23 in a Turkish investment vehicle in accordance with this section,  
24 this section shall not apply except that the board shall file a report  
25 with the Legislature related to that investment vehicle as described  
26 in subdivision (i).

27 (k) Nothing in this section shall require the board to take action  
28 as described in this section if the board determines, and adopts  
29 findings, in good faith and based on credible information available  
30 to the public, that the action described in this section would fail  
31 to satisfy the fiduciary responsibilities of the board as described  
32 in Section 17 of Article XVI of the California Constitution.

33 (l) This section shall be known, and may be cited, as the  
34 California Public Divest from Turkey to End the Perpetuation of  
35 the Armenian Genocide Act.

36 SEC. 3. Section 16642 of the Government Code is amended  
37 to read:

38 16642. Present, future, and former board members of the Public  
39 Employees' Retirement System or the State Teachers' Retirement  
40 System, jointly and individually, state officers and employees,

1 research firms described in subdivision (d) of Section 7513.6, and  
2 investment managers under contract with the Public Employees'  
3 Retirement System or the State Teachers' Retirement System shall  
4 be indemnified from the General Fund and held harmless by the  
5 State of California from all claims, demands, suits, actions,  
6 damages, judgments, costs, charges and expenses, including court  
7 costs and attorney's fees, and against all liability, losses, and  
8 damages of any nature whatsoever that these present, future, or  
9 former board members, officers, employees, research firms as  
10 described in subdivision (d) of Section 7513.6, or contract  
11 investment managers shall or may at any time sustain by reason  
12 of any decision to restrict, reduce, or eliminate investments  
13 pursuant to Sections ~~7513.6 and 7513.7~~. 7513.6, 7513.7, and  
14 7513.75.

15 SEC. 4. The provisions of this act are severable. If any  
16 provision of this act or its application is held invalid, that invalidity  
17 shall not affect other provisions or applications that can be given  
18 effect without the invalid provision or application.